

REMARKS

Power of Attorney

The subject file has recently been transferred to the undersigned for prosecution. Please process the enclosed Power of Attorney by Assignee of Entire Interest and direct all future communications to the undersigned. Please also associate this application with Customer Number 34205.

Status of Claims

Claims 1-35 are pending in the application. Claims 32-34 are rejected. Claims 1-31 and 35 are allowed.

Rejection Under 35 U.S.C. §102

The Examiner rejected claims 32-34 under 35 U.S.C. §102(b) as being anticipated by Swanson et al. ("Swanson"), U.S. Patent 6,183,468. Applicant respectfully traverses the rejection and requests reconsideration.

In rejecting independent claim 32, the Examiner stated that Swanson discloses a system comprising "a processor (102) with a memory configured to store a plurality of code modules (algorithms) for delivering energy to raise a temperature of tissue to a first target temperature followed by a dwell time and then to a second temperature for a second dwell time." Claim 32 recites "[a] system for delivering energy to a structural support tissue of a pelvic support system, the system comprising . . . a code module for delivering energy to raise a temperature of the structural support tissue to a first target temperature . . . and a code module for dynamically adjusting a power level of the energy after the structural support tissue has substantially reached the first target temperature so as to allow the structural support tissue to dwell at substantially a second target temperature for a desired amount of dwell time." However, Swanson does not disclose such a system. According to Swanson, "one embodiment of the invention includes a temperature control algorithm wherein temperature is maintained at two different temperatures prior to reaching the set temperature T_{SET} ." (Col. 19, lines 27-30) In operation, "[t]he controller

initially sets the temperature setpoint at a first temperature T_1 for about 10 to 15 seconds” and then the controller “increases the temperature setpoint to a second temperature T_2 for about 10 seconds.” (Col. 19, lines 34-39) Finally, the controller increases the setpoint temperature “to the input temperature setpoint T_{SET} for the remainder of the coagulation procedure.” (Col. 19, lines 39-42)

The system described in Swanson merely sets the temperature at a first predetermined temperature for a predetermined period of time, increases the temperature to a second predetermined temperature for another predetermined period of time, and finally, increases the temperature to the final “setpoint” temperature for the remainder of the procedure. As a result, instead of allowing the tissue to dwell at substantially a target temperature for a desired amount of dwell time as recited in claim 32, Swanson teaches a system that automatically adjusts temperature after a fixed period of time regardless of whether the tissue has reached the target temperature for the desired amount of dwell time. Thus, Swanson does not disclose “a code module for delivering energy to raise a temperature . . . to a first target temperature” and “a code module for dynamically adjusting a power level of the energy after the structural support tissue has substantially reached the first target temperature so as to allow the structural support tissue to ***dwell at substantially a second target temperature*** for a desired amount of dwell time” as recited in independent claim 32. Because Swanson fails to disclose each element of independent claim 32, the rejection of claim 32 under 35 U.S.C. §102 should be withdrawn.

Dependent claims 33 and 34 were also rejected under 35 U.S.C. §102(b) as being anticipated by Swanson. Claims 33 and 34 depend from independent claim 32. As such, these claims are allowable with their independent base claim. In addition, it is respectfully submitted that the combinations of features recited in claims 33 and 34 are patentable on their own merits, although this does not need to be specifically addressed herein since any claim depending from a patentable independent claim is also patentable.

Conclusion

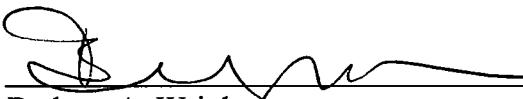
Applicant respectfully submits that with the arguments presented herein all pending claims are allowable over the art of record, for at least the reasons discussed above, and respectfully requests that a Notice of Allowance with respect to all pending claims be issued in this case.

If the Examiner believes that a teleconference would be of further value in expediting the allowance of the pending claims, the undersigned can be reached at the telephone number listed below. The present response is being filed within the three-month statutory period for response, and no fee or petition for an extension is due. If, however, it is believed that any additional fees are necessary, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference #687-3110/US).

Dated: October 30, 2006

Respectfully submitted,

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Customer No. **34205**